

Application No. 399,535

an ejecting mechanism for ejecting said plug member from said distal end of said elongated member so as to place said plug member in blocking relation with said puncture, so as to seal said puncture.

REMARKS

In the official action of September 23, 1999, the Examiner pointed out that applicants' response did not specifically apply to claim 102.

The Examiner's comments are gratefully acknowledged, and claim 102 is thus amended in precisely the same manner in which claim 95 was amended in applicants' June 21, 1999, response.

The specification had been objected to under 37 C.F.R. § 1.71. However, in view of the previous amendment to claim 95 and the above-noted amendment to claim 102, it is believed that this objection has now been obviated.

Claims 95-102 had been rejected as being unpatentable under 35 U.S.C. § 112, first paragraph. The Examiner has contended that the claims contain subject matter not described in the specification to enable one skilled in the art to make or use this invention. The Examiner specifically contended that nowhere in the specification is it disclosed that the plug means is disposed at the distal end of the elongated member. Thus, the Examiner contends that the plug is disposed at the distal end only during the process of inserting the plug into the puncture, and that even if the specification did not recite this feature, this would be an intermediate step in the process and not initial configuration of a device. This rejection is respectfully traversed in view of the prior amendment to claim 95 and the arguments presented in applicants' prior response, and in view of the above-noted amendment to claim 102 and for the reasons set forth hereinafter.

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Attention is initially directed to amended claim 102. Claims 95 and 102 thus still clearly correspond to claims 11 and 38 of the Lee patent, but do not specifically require that the plug means of the claimed device be disposed at the distal end of the elongated member. Instead, the claims merely require that the plug means be disposed in the elongated member, and that the movable guide means extend longitudinally through the elongated member and the plug means for extension through the puncture for guiding the plug means to the puncture. Again, this corresponds precisely to claim 11 of the Lee patent. While applicants are claiming a device, at the precise moment when the plug means of claim 95 reaches the distal end of the elongated member, it clearly corresponds to the precise embodiment of the Lee invention in which the plug means is initially disposed at the distal end of the elongated member. Thus, while the Examiner contends that applicant does not support a claimed device with the plug means initially located at the distal end of the elongated member, it is submitted that, even if this were the case, and applicants do not admit that it is, the amended claim herein nevertheless does not require such a specific embodiment. Indeed, the language of claims 11 and 38 in the Lee patent are not believed to be so limited, but, in any event, is clearly directed to the same invention as that of amended claims 95 and 102 herein.

It is therefore respectfully submitted that this objection to the specification and claims has now clearly been obviated, and reconsideration of this objection is respectfully requested. Indeed, it is believed that this application is clearly in condition for institution of an interference, if for no other reason than the Examiner has again confirmed the fact that claims 103 and 104, directed to the claimed method, are allowable and they themselves provide more than adequate basis

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for institution of an interference with the Lee patent. If, however, for any reason the Examiner stills believes, however, that any of these claims are not in condition for allowance, and/or that an interference cannot be declared, it is respectfully requested that he telephone applicants' attorney at (908) 654-5000 in order to overcome any objections which he might have at this time.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Respectfully submitted,

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